

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRIAN E. VODICKA,
Plaintiff,

v.

ROBERT L. ERMATINGER, JR., and
SCOTT ROBERT SAYERS,
Defendants.

§
§
§
§
§
§
§
§

Civil Action No. 3:19-CV-0056-B

ORDER

By order of reference dated August 9, 2021 (doc. 235), before the Court for determination is *Non-Party Michael B. Tobolowsky's Verified Motion to Quash Second Subpoena Issued by Plaintiff Brian E. Vodicka, and Motion for Protective Order, Rule 45(D) Motion for Sanctions, and Brief in Support*, filed August 5, 2021 (doc. 231). An oral argument concerning the motion was conducted on September 16, 2021, and all parties appeared in person or through counsel. As permitted by the order dated September 1, 2021, the plaintiff appeared telephonically. After consideration of the relevant filings, evidence, oral argument, and applicable law, and for the reasons stated on the record during the hearing, the motions to quash and for a protective order are **GRANTED**.

The movant seeks an award of costs and attorneys' fees associated with making his motions to quash and for a protective order. Rule 45(d)(1) provides for the imposition of "an appropriate sanction— which may include lost earnings and reasonable attorney's fees— on a party or attorney who fails to" take reasonable steps to avoid imposing an undue burden or expense on a person subject to a subpoena.

Local Rule 7.1(a) and (h) of the Local Civil Rules for the Northern District of Texas require that parties confer before filing an application for attorney's fee and expenses. Accordingly, counsel are hereby directed to confer about whether fees may be awarded to a *pro se* attorney movant, whether

fees should be awarded, and the reasonableness of any requested fees. No later than **5:00 p.m. on September 30, 2021**, the parties must notify the Court of the results of the conference in writing. If the disputed issues have been resolved, the fee applicant shall also forward an agreed proposed order in word or wordperfect format to “ramirez_orders@txnd.uscourts.gov”. If the parties do not reach an agreement, or if the respondent fails to confer, the fee applicant may file an application for reasonable expenses and attorney’s fees **no later than 5:00 p.m. on September 30, 2021**. The fee application must be supported by documentation evidencing the “lodestar”¹ calculation, including affidavits and billing records, and citations to relevant authorities. *See Tollett v. City of Kemah*, 285 F.3d 357, 367 (5th Cir. 2002) using the “lodestar” method to award attorney’s fees under Rule 37). The respondent may file a response **no later than 5:00 p.m. on October 14, 2021**. The movant may not file a reply.

SO ORDERED on this 16th day of September, 2021.


IRMA CARRILLO RAMIREZ
UNITED STATES MAGISTRATE JUDGE

¹ The “lodestar” method is explained in *Hensley v. Eckerhart*, 461 U.S. 424, 433 (1983).